

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SETH R. NELSON,

Plaintiff,

-v-

5:24-CV-1378

CMC PACKAGING SOLUTIONS,  
KKR, and AMAZON.COM, INC,

Defendant.  
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APPEARANCES:

OF COUNSEL:

SETH R. NELSON  
Plaintiff, Pro Se  
10 East Academy Street  
McGraw, NY 13101

DAVID N. HURD  
United States District Judge

**ORDER ON REPORT & RECOMMENDATION**

On November 13, 2024, plaintiff Seth R. Nelson (“plaintiff”), acting *pro se*, commenced a three-count action against CMC Packaging Solutions, KKR, and Amazon.com, Inc. (collectively, “defendants”) for discrimination, harassment, and “sabotage” in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”). Dkt. No. 1. That same day, this Court administratively

closed this matter due to plaintiff's failure to pay the required filing fee. Dkt. No. 3. Thereafter, plaintiff filed an amended complaint together with an application to proceed *in forma pauperis* ("IFP Application") and the case was reopened on November 25, 2024.<sup>1</sup> Dkt. Nos. 4, 6.

On December 11, 2024, after conducting an initial review of plaintiff's complaint, U.S. Magistrate Judge Mitchell J. Katz granted plaintiff's IFP Application. Dkt. No. 8. Judge Katz further advised by Report & Recommendation ("R&R") that plaintiff's complaint should be dismissed in its entirety. Dkt. No. 8.

Plaintiff has not lodged objections and the time period in which to do so has expired. *See* Dkt. No. 8. Instead, plaintiff has filed two additional amended complaints, accompanying exhibits, and a letter request. Dkt. Nos. 11–14. Turning first to additional plaintiff's amended pleadings: plaintiff has not filed these amended pleadings as of right or with either the defendants' written consent or the Court's leave. *See* FED. R. CIV. P. 15(a)(2). In the interest of justice, on December 30, 2024, the Court ordered plaintiff to specify which complaint he intended to be the operative pleading no later than Monday, January 13, 2025. Dkt. No. 16. Instead of complying with the Court's Order, plaintiff moved the Court to "order metadata." Dkt. No. 18.

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<sup>1</sup> As is noted on the docket, Dkt. No. 4, this amended complaint was largely similar to the original complaint.

To date, plaintiff has not responded or otherwise complied with the Court's December 30, 2024 order. Therefore, the Court will treat plaintiff's properly amended complaint, Dkt. No. 4, as the operative pleading. Turning next to plaintiff's letter request: plaintiff has moved the Court to "listen to his complaints about felonies committed against him[.]" Dkt. No. 11. This letter request merely restates plaintiff's allegations and requests for relief. *See id.* That request will be denied as moot upon the Court's acceptance and adoption of Judge Katz's R&R dismissing plaintiff's complaint. *Infra.*

Upon review for clear error, Judge Katz's R&R will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 8) is ACCEPTED;
2. Plaintiff's amended complaint (Dkt. No. 4) is DISMISSED without prejudice and with leave to amend;
3. Plaintiff's letter request (Dkt. No. 11) is DENIED as moot;
4. Plaintiff's motion to order metadata (Dkt. No. 18) is DENIED as moot;<sup>2</sup>
5. The Clerk of the Court serve a copy of this Order on plaintiff by regular mail; and

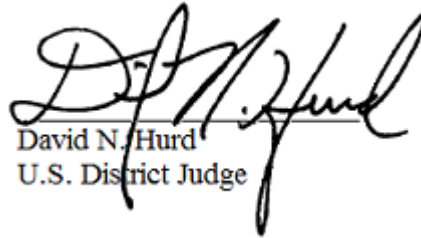
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<sup>2</sup> Again, as plaintiff failed to respond to the Court's order to specify what his operative pleading was by January 13, 2025, the Court will not entertain this motion as the action is dismissed herein.

6. If plaintiff fails to file a proposed amended complaint within thirty (30) days of the issuance of this Order, the Clerk of the Court shall enter a judgment accordingly and close the file.

The Clerk of the Court is ordered to terminate the pending motions and set a deadline for plaintiff to submit their proposed amended complaint.

IT IS SO ORDERED.



David N. Hurd  
U.S. District Judge

Dated: February 6, 2025  
Utica, New York.